REMARKS/ARGUMENTS

Claims 1, 6, 9, 10, 13, 22, 24-26, 37-41, 43-49 and 53-58 remain in this application.

Claims 2-5, 7, 8, 11, 12, 14-21, 23, 29-36, 42 and 50-52 have been canceled.

The Examiner has found Claims 11, 12, 27,28, 50 and 51 allowable.

Claims 53 and 54 have been added, which are Claims 11 and 12, respectively, rewritten in independent form with all the limitations of their base claim and any intervening claims.

Claims 55 and 56 have been added, which are Claims 27 and 28, respectively, rewritten in independent form with all the limitations of their base claim and any intervening claims.

Claims 57 and 58 have been added, which are Claims 50 and 51, respectively, rewritten in independent form with all the limitations of their base claim and any intervening claims.

Antecedent support for the amendments to Claim 1 is found in Claims 2-5; Claim 6 is found in Claims 7 and 8; Claim 22 is found in Claim 23; Claim 37 is found in Claim 42.

In response to the Examiner's comments, the Abstract has been amended, and the term "SPVx" has now been spelled out in each independent claim in its first occurrence.

Claim 6 has been amended to obviate the 112 rejection.

Claims 14-17, 22, 30, 31 and 37 have been rejected by the Examiner as being anticipated by Kajitani. Claims 14-17 have been canceled. Claim 22 now has the limitation of Claim 23. Claims 30 and 31 have been canceled. Claim 37 now has the limitation of Claim 42.

The Examiner has rejected Claims 1-4, 32-34 and 38-41 as being unpatentable over Kajitani in view of Saleh. Applicants respectfully traverse this rejection. Claim 1 now has the limitations of Claims 2-5, and Claims 2-4 have been canceled. Claims 32-34 have been canceled. Claims 38-41 now depend on amended Claim 37 and has the limitation of Claim 42.

The Examiner has rejected Claims 5, 35, 36 and 42-44 as being unpatentable over Kajitani in view of Saleh and Shabtey. Applicants respectfully traverse this rejection. The limitations of Claim 5 are now in amended Claim 1; and Claims 35 and 36 have been canceled, the limitation of Claim 42 is now found in Claim 37.

Referring to Kajitani, there is disclosed a rerouting method for a PVC route on an ATM network and a network management system using the rerouting method. Kajitani teaches a faulty PVC switching table 8 is provided for defining a plurality of faulty elements containing PVC routes. See column 9, lines 1-6. When a fault occurs in a network element 10, the faulty event analyzing unit 5 detects the faulty network element 10. The PVC route searching unit 4 detects the faulty element containing PVC router which contains the faulty event. Next, the alternate route selecting unit 7 refers to the faulty PVC route switching table 8, and selects the PVC route which does not coincide with another faulty element containing the faulty PVC router. See column 9, lines 17-34.

Kajitani goes on and explains elaborate algorithms to determine an alternative route. However, nowhere does Kajitani teach or suggest for the primary source switch to make multiple

attempts to reestablish the connection with the primary destination node after a failure is detected. Nowhere does Kajitani teach or suggest for the primary source switch to reestablish the connection to the primary destination node when the failure condition clears. In fact, Kajitani teaches away from this by specifically teaching to immediately seek an alternate route and essentially never looking back at the failed connection. To even consider modifying Kajitani to arrive at applicants' claimed invention would essentially eliminate the entire purpose and operation of Kajitani since basically the focus of Kajitani as described in all the different embodiments about how to determine the alternate route.

In regard to Saleh, there is disclosed a method for storing a virtual path in an optical network using one plus one protection. The Examiner cites Saleh solely for the teaching that Saleh discloses a node restoring a primary path to a secondary path, which the Examiner then suggests is equivalent to forming an alternate path by connecting the primary source node and the alternate destination node only after the primary path experiences a failure. See paragraph 9 of the Office Action.

It is respectfully submitted that Saleh is applicable only to a very specific architecture, a network using one plus one protection. This is a common architecture that provides for a redundancy so if a primary path fails a second or one plus one path can be used to carry out the connection. What is further stressed, and referring to figure 1 of Saleh, there is no alternate destination node. The alternate path or secondary path is available to only allow the source node to maintain communication with the destination node. Saleh specifically teaches in paragraph 37 that the restoration using a one plus one restoration scheme can be initiated either by the source node or the destination node of the VP. When the VPs active physical path fails on the tandem node, the tandem node initiates a path restoration request for the end node. Paragraph 38 of Saleh teaches that when an end node receives a path failure message, the end node switches the

VP to the standby physical path. Accordingly, it is respectfully submitted, that besides an architecture that is distinct and not applicable to the teachings of Kajitani to be combined with Kajitani, there is a fundamental defect in applying Saleh because Saleh has no alternate destination node; it just provides alternate paths for the source node to maintain communication with the same destination node. Accordingly, it is respectfully submitted that applying Saleh and its teachings to Kajitani is misplaced, and Saleh doesn't even teach what the Examiner suggests it teaches.

Referring to Shabtey, there is disclosed fast connection protection and a virtual local area network in a stacked environment. Besides the fact that as explained above, Saleh adds nothing to the teachings of Kajitani to arrive at applicants' claimed invention, that Saleh does not teach a alternate destination node, and that Kajitani never even considers reestablishing the connection between the primary source node and the primary destination node after the failure clears and in fact teaches and focuses only on how to come up with an alternate path, the Examiner cites Shabtey for disclosing to return traffic from one recovery path back to the working path. See page 8 of the Office Action.

Shabtey specifically teaches an architecture that is based on a stacked environment. Neither the architectures of Kajitani nor Saleh have anything at all to do with this architecture. Furthermore, once again, there is no teaching or suggestion of alternate destination nodes. What Shabtey is teaching is to move between paths, but nowhere is there any teaching of reestablishing the connection to the primary destination node from the primary source switch for communication back to the primary source node, as found in amended Claim 1. Thus, Shabtey does not teach or suggest applicants' invention of amended Claim 1.

It also must be respectfully submitted that the Examiner is using hindsight to arrive at applicants' claimed invention. There must be some teaching or motivation in the references themselves to combine these references. Here, there is none. Only the use of hindsight is the basis of combining these references. The Examiner is using applicants' claims as a roadmap to find the elements in the claims in the various references, and then having found the various elements, concluding that applicants' claimed invention is arrived at. This is not patent law.

In addition, the Examiner is ignoring the context in which each of these teachings is found, which is also contrary to patent law. In the context that is considered for each of these teachings, they would never be used by one skilled in the art to arrive at applicants' claimed invention. As explained above, the architectures are too distinct, and there is nothing to indicate that the respective teachings could simply be used in Kajitani, without undue experimentation and development and modification of the system taught by Kajitani. Accordingly, applicants' claims, as amended, are patentable over Kajitani in view of Saleh and Shabtey.

The Examiner rejects Claim 6-10 and 23-26 as being unpatentable over Kajitani in view of Pelissier. Applicants respectfully traverse this rejection. Kajitani has already been discussed above. It must be further added in regard to Claims 6 and 23 that Kajitani does not teach an alternate source node. As shown in figures 10 and 11, there is only a single source node.

The Examiner cites Pelissier because Pelissier discloses a redundant node C and establishing a connection from nodes C to node B shown in figure 3. See page 9 of the Office Action. However, a review of Pelissier fails to teach or suggest the limitation of the alternate switch node reestablishing the connection from the primary switch node to the primary destination node when the failure has cleared. Thus, Pelissier adds nothing to the teachings of

Kajitani to arrive at Claims 6-10 in Claim 23-26. Accordingly, these claims are patentable over the applied art of record.

In view of the foregoing amendments and remarks, it is respectfully requested that the outstanding rejections and objections to this application be reconsidered and withdrawn, and Claims 1, 6, 9, 10, 13, 22, 24-26, 37-41, 43-49 and 53-58, now in this application be allowed.

Respectfully submitted,
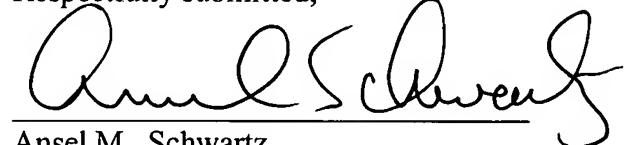
Ansel M.. Schwartz
Reg. No. 30,587
201 N. Craig Street, Suite 304
Pittsburgh, PA 15213
Tel.: (412) 621-9222

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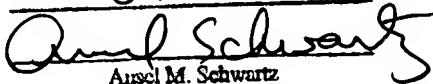
Ansel M. Schwartz
Registration No. 30 587